

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

PRESENT
THE HON'BLE MR JUSTICE R.SUBHASH REDDY
WRIT PETITION NO : 3197,3756,3788, 3888 and 24597
of 2006

Dated 6th February, 2007

WP.NO. 3197 OF 2006:

Between

Mulga Yogeswari and ors

....Petitioners

and

The Registrar, Andhra University, Visakhapatnam, and ors

...Respondents

W.P.NO.3756 OF 2006:

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Between

The Secretary and Correspondent, Mr.V.Himansu
St. Marks's College of Education, Mandasa, Srikakulam
District

....Petitioner
and

The Registrar, Controller of Examinations,
Andhra University, Visakhapatnam and ors

...Respondents.

W.P.NO. 3788 OF 2006:

Between

St. Marks's College of Education, rep. By its
Secretary & correspondent, Lanka Ramakrishna

.....Petitioner

and

The Registrar, Andhra University, Visakhapatnam and ors

....Respondents.

W.P.No. 3888 OF 2006:

Between
N.Kamaleswari and ors

And

Andhra University, Visakhapatnam,
Rep. By its Registrar and ors

...Respondents

W.P.NO.24597 OF 2006:

Between

St. Marks's College of Education,
Rep. By the Secretary & Correspondent
Mr.Paul V Himansu

....Petitioner

and

The Andhra Pradesh State Council of Higher Education,
Rep. By its Secretary, Masab Tank, Hyderabad, and anr.

....Respondents.

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

**WRIT PETITION NO : 3197,3756,3788, 3888 and 24597
of 2006**

COMMON ORDER:

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As the issues involved in all these Writ Petitions are inter related, all the Writ Petitions were heard together and are being disposed of by this common order.

Writ Petition No. 3756 of 2006 was filed seeking Writ of Mandamus to declare proceedings No.E.VI(7)/B.Ed/06, dated 20-02-2006 issued by the Registrar and the

Controller of Examinations, Andhra University, Visakhapatnam, as illegal and arbitrary.

In the aforesaid proceedings, the Registrar and the Controller of Examinations, Andhra University, had permitted only 72 candidates admitted into B.Ed. course in the petitioner-college to write examinations. In respect of the remaining candidates, it was ordered that they will be considered after obtaining necessary approval from the competent authority, i.e. A.P. State Council of Higher Education.

Writ Petition No.3788 of 2006 was filed seeking Writ of Mandamus to declare the action of the respondents in not issuing Hall tickets to all the students admitted into B.Ed course for the academic year 2004-2005 to appear for the examinations held from 1-3-2006, as illegal and arbitrary.

Writ Petition Nos. 3197 and 3888 of 2006 were filed by the students seeking Writ of Mandamus to declare the action of the respondents in not issuing hall tickets to them to appear for the B.Ed examinations, which were held from 1-3-2006 as illegal and arbitrary.

Writ Petition No. 24597 of 2006 is filed seeking Writ of Mandamus to declare the action of the respondents in not releasing the original certificates of the students who were admitted in the petitioner-college under the convener quota and not transmitting the tuition fee to the petitioner-college as illegal and arbitrary.

St. Marks's College of Education, Mandasa, Srikakulam District is having due permission from the competent authority under the National Council for Teacher Education to run B.Ed. course with an intake capacity of 100 students. The disputes in the management of the said college have led to filing of all these cases.

For the academic year 2004-2005, the approved intake capacity in the St. Marks's College of Education was 100 students. In the Convener quota, out of 85 students, only 57 candidates were allotted by the Convener and 15 students were admitted by the management. The admission of said 72 candidates was approved by the competent authority. In the convener quota, 28 seats fell vacant. The Convener, Ed.CET-2004 has issued proceedings in Rc.No. 3315/A1/Ed.CET/2004, dated 22-08-2005, requesting the principals of all the Colleges of Education in the State to fill up the unfilled seats by following guidelines indicated therein. The guidelines, which are indicated in the proceedings dated 22-08-2005 read as under:

“1. The unfilled seats to be filled on or before 29-08-2005.

2. The highest Rank in each category in each subject are enclosed under each University with the proceedings, are requested to fill up the vacancies below the State rank by following mentioned and rule of reservation.

3. Wide publicity in the news papers should be given stating the category-wise subject-wise vacancies along with venue date and time of interview.

4. If no candidate is attended for interview, the

vacancy should not be filled in by deviation from one methodology to another methodology and it should be kept vacant.

There should not be any deviation and the sanction intake capacity should not be exceeded. The entire selection process should be done under the observation of the District Educational Officer concerned or his nominee. All the original qualifying certificates, Hall ticket, Rank Card should be verified and after verifying the eligibility criteria the admissions should be given.

After completion of the admissions the list of admitted candidates should be submitted on 30-08-2005. The Principal's Management is responsible for any irregularity.

This is applicable to the Minority institutions also, if the candidates are exhausted in the merit list admitted by the Principal/Management as there are no deviations of subjects.

The list of admitted candidates are to be countersigned by the District Educational Officer or his nominee."

Admissions to B.Ed course are regulated by statutory rules, namely, Andhra Pradesh Private Minority (Aided/Un-aided) Colleges of Education (Regulation of Admissions into B.Ed Course through Common Entrance Test) Rules, 2005, which are framed under the Andhra Pradesh Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983. As per the proceedings dated 22-08-2005 issued by the Convener, Ed.CET-2004 and the Rules referred above, the left over vacant seats in the convener quota were to be filled by the management by following the due procedure by giving wide publicity in the newspapers. But, however, in this case, the two rival

groups claiming the management of the St. Marks's College of Education, Mandasa, without following the due procedure, granted admissions and even beyond the permitted intake capacity. One group headed by one Mr.V.Himansu claims that it had admitted 18 more students, and, one other group headed by Smt. V.Chandana claims that it had admitted 20 more students. As per the rules referred above, such admissions are required to be approved by the Secretary, A.P. State Council of Higher Education. The A.P. State Council of Higher Education had not approved the list of candidates admitted by any of the groups and it merely approved 72 candidates admitted at the first instance, i.e. 57 candidates admitted by Convener and 15 candidates admitted under Management quota. So far as 72 candidates are concerned, they were allowed to appear for the examinations. The two groups in the management and the students who were admitted by the said groups, whose admissions were not approved, filed Writ Petition Nos.3756 and 3788 of 2006 and W.P.Nos. 3888 & 3197 of 2006 respectively. So far as Writ Petition No.24597 of 2006 is concerned, the same relates to the academic year 2005-2006 and the same was filed when the Convener had not transmitted original qualification certificates and fee collected after making the admissions.

At the stage of admission of Writ Petition No. 3788 of 2006, when no interim orders were granted, Writ Appeal No. 245 of 2006 was preferred. A Division Bench of this Court, while disposing of the said Writ Appeal, by judgment dated 3-3-2006 observed as follows:

“ While dismissing the appeal in the manner indicated above, we direct the University to immediately take corrective measures and ensure that the affiliated colleges, which make admissions in violation of the rules and policies, are made to realize their duty to act in accordance with law. If the University finds that the affiliated colleges do not adhere to the statutory rules and norms, then it must take steps for withdrawal or cancellation of the affiliation.

Principal Secretary, College Education, Government of Andhra Pradesh is also directed to look into the matter and ensure that those students who have been admitted by either group of the management of the college in violation of the instructions issued by the Convener, Ed.CET, 2004, vide letter dated August 22, 2005 are compensated by the concerned group of management of the college by return of total fee together with interest at the rate of 9%. The unusual direction has been given by us with the hope that in future the managements of private, aided and un-aided colleges may not be able to play with the careers of the students.”

With regard to the relief sought for in respect of the candidates who were admitted by two groups in these cases, no direction can be given, so as to permit them to write examinations. The competent authority did not approve the admissions of those 38 candidates admitted by the two groups without issuing any notification, and, contrary to the guidelines issued by the convener. The said admissions were made not only in violation of the Rules, but also much beyond the cut off date fixed for the last date of admissions, i.e. 29-08-2005. In the letter dated 22-08-

2005, the Convener has issued guidelines to the Colleges to notify the unfilled seats by giving wide publicity. But however, in this case, though the two groups claimed to have granted admissions, but they did not give the paper advertisement for filling up the unfilled seats. The said seats were filled in violation of the Rules framed under the Andhra Pradesh Educational Institutions (Regulation of Admission and prohibition of Capitation Fee) Act, 1983. When such of 38 admissions are not in conformity with the guidelines and Rules, and when such admissions of 38 candidates are not approved by the competent authority during the said academic year, question of allowing the said candidates to appear for the examinations at this stage will not arise. In any event, a Division Bench of this Court in the judgment dated 03-03-2006 in Writ Appeal No. 245 of 2006 already gave directions to the Principal Secretary, College Education, Government of AP to look into the matter and ensure that those students who have been admitted by either of the rival groups of the management of the college in violation of the instructions issued by the Convener, Ed.CET 2004 vide letter dated 22-08-2005 are compensated by the concerned group of the management of the college by returning the total fee together with interest at the rate of 9% per annum.

For the aforesaid reasons, as much as admissions are not approved by the Competent authority and in the light of the judgment of the Division Bench of this Court in Writ Appeal No. 245 of 2006, dated 3-3-2006, no relief can be

granted in Writ Petition Nos. 3756, 3788, 3888 and 3197 of 2006.

So far as Writ Petition No.24597 of 2006 is concerned, it relates to admissions made by the Convener for the academic year 2005-2006. At the time of making admissions in the Convener quota, it is stated that the candidates have submitted their original certificates and paid fee to the Convener, which are required to be transmitted to the college. So far as original certificates collected by the Convener are concerned, there will not be any difficulty to transmit the same to the appointed Principal of the petitioner-college. But however, in view of the rival claim in the management, the money cannot be transmitted to the account of the petitioner-college. In view of the dispute in the management, to manage the affairs of the petitioner-college, the learned District Judge, Vizianagaram, has already passed order on 17-01-2005 in AOP.No.668 of 2003 appointing the Receiver to take charge of the affairs of the petitioner- college and the said Receiver was directed to submit his monthly report and accounts by 15th of every succeeding month. In that view of the matter, I deem it appropriate to dispose of W.P.No. 24597 of 2006 by directing the Secretary, A.P. State Council of Higher Education, to take steps to deposit the amount to the credit of A.O.P.No. 668 of 2003 on the file of the District Judge, Vizianagaram. It is made clear that the said amount can be withdrawn as and

when required to manage the affairs of the college by filing appropriate application before the learned District Judge, Vizianagaram. So far as the original certificates of the students are concerned, the Secretary, A.P. State Council of Higher Education shall prepare a list of candidates and particulars of the certificates and send the same to the Principal under valid acknowledgement.

Accordingly, Writ Petitions.3197, 3756, 3788 and 3888 of 2006 are dismissed and Writ Petition No. 24597 of 2006 is disposed of. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATE: 06-02-2007.
Msnr.

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